THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22668 of 2006

Dated: 22.11.2006

Between

Eeranki Lakshmi Satyavatamma

..... PETITIONER

And

The Superintending Engineer/Assessment,
A.P.E.P.D.C. Ltd., opposite Green park,
Vidyoutshouda, Visakhapatnam and
two others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22668 of 2006

ORDER:

The petitioner is availing electricity supply at his residence under L.T. Category-I (domestic). The petitioner's premises was inspected by D.E./D.P.E/Eluru on 10.12.2001. A case of pilferage of energy was booked against the petitioner. Against the provisional assessment order, the petitioner made a representation to the second respondent who passed orders on 29.05.2002 finally assessing the value of the pilfered energy at Rs.99,236/-. The petitioner alleges that the same was not served on him immediately. After the service of the final assessment order of the second respondent allegedly on 15.10.2006, the petitioner filed an appeal under Section 127 (1) of the Electricity Act, 2003 (the Act, for brevity) before the first respondent on 19.10.2006. The same is still pending. While the proceedings were pending, it appears the third respondent disconnected power supply to the petitioner's premises. Therefore, he filed instant writ petition seeking a writ of mandamus directing the first respondent to dispose of the appeal and also restore power supply to S.C.No.3798.

The learned Counsel for the petitioner submits that there was a delay on the part of the respondents in serving final assessment order of the second respondent dated 29.05.2002. After receiving the same, the petitioner filed an appeal under Section 127(1) of the Act and therefore, the first respondent ought to have disposed of the appeal having regard to the fact that the power supply was disconnected to the petitioner's premises in December 2001. **Per Contra**, Sri G.V.Raghava Reddy, learned Standing Counsel for A.P.Transco representing Sri M.Sreeramulu Reddy, submits that as per Sub-section (2) of Section 127 of the Act and Regulation 3 of Andhra Pradesh Electricity Regulatory Commission (Procedure for filing Appeal before the Appellate Authority) Regulation 2004, (the Regulations, for brevity) the petitioner is required to submit the appeal to the appellate authority within thirty days of final assessment order duly depositing in cash or by way of bank draft an amount equal to one-third of the assessed amount. The petitioner only paid a sum of Rs.20,000/- pursuant to the order of this Court in W.P.No.25957 of 2001 dated 21.12.2001 and therefore, the appeal could not be taken up for hearing.

The learned Counsel for the petitioner does not dispute that the petitioner presented the appeal before the first respondent in an improper manner without complying with the mandatory requirements of Section 127(2) of the Act and Regulation 3 of the Regulations. Therefore, if any order is passed now directing the first respondent to dispose of the appeal, it would amount to ignoring Section 127(2) of the Act and Regulation 3 of the Regulations. Such a mandamus cannot be issued to a public authority.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.11.2006
DR